

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**CRIMINAL APPEAL No. 1864 of 2006****For Approval and Signature:****HONOURABLE MR.JUSTICE RAVI R.TRIPATHI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHAILESHKUMAR ISHWARBHAI CHAUHAN
Versus
STATE OF GUJARAT

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Appearance :

MS VIMALA NAILWAL for the Appellant

MR HL JANI, ADDITIONAL PUBLIC PROSECUTOR for the Opponent

MS AM BHATT, for Original Complainant

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 14/11/2006**ORAL JUDGMENT**

1. **ADMIT.** Mr.H.L.Jani waives process of admission on behalf of the opponent – State.

2. Shaileshkumar Ishwarbhai Chauhan – appellant –

original accused is before this Court by filing present Appeal.

The appellant is convicted for an offence under Section 435 of the Indian Penal Code and is awarded one year's R.I., fine of Rs.2,000/- and in default, further R.I. for three months by the learned Presiding Officer, 4th Fast Track Court, Surat by judgment and order dated 13.10.2006 in Sessions Case No.248 of 2005.

2. Present Appeal was filed on 01.11.2006. The matter come up on board on 04.11.2006. On that day, it was adjourned to 08.11.2006, at the request of the learned advocate for the appellant. On 08.11.2006, learned advocate for the appellant sought time and the matter was adjourned to 09.11.2006. On 09.11.2006, it was stated by the learned advocate for the appellant that, 'as the mother of the complainant is operated, the parties could not remain present before the Court.' Further time was sought for so as to enable the parties to remain present before the Court and reiterate the compromise arrived at between the parties.

Today, i.e. 14.11.2006, Smt.Manishaben Dilipbhai Solanki – original complainant is present before the Court. She is identified by learned advocate Ms.Ami M.Bhatt, appearing for the original complainant.

3. Original complainant - Manishaben Dilipbhai Solanki is inquired about the compromise. She reiterates that the compromise is arrived at between the parties. She further states that she is residing at the same place, where the incident had taken place and that the parties have cordial relations and do not have any surviving grievance between them.

4. Subsection (6) of section 320 of the Code of Criminal Procedure, 1973 reads as under:

“A High Court or Court of Sessions acting in the exercise of its powers of revision under Section 401 may allow any person to compound any offence which such person is competent to compound under this section.”

5. Heard the learned advocate for the appellant and Mr.H.L.Jani, learned Additional Public Prosecutor. The fact that the parties are jointly submitting that the matter is compromised, no useful purpose would be served in protracting the matter further.

6. This Court in the matter of Nitinbhai Mathurdas Thakkar & others Vs. State of Gujarat and another, reported in 2005 (3) G.L.R. 2377, has quashed the complaint when there was a compromise. The Hon'ble the Apex Court in the matter of State of Karnataka Vs. L.

Muniswamy & others, reported in A.I.R. 1977 SC 1489 has observed in para 7 as under:

“7. xxx xxx

In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution.....”

6. In view of the compromise arrived at between the parties and the fact that the parties have cordial relations without there being any surviving grievance, the offence against the appellant is compounded. Judgment and order of the learned Presiding Officer, 4th Fast Track Court, Surat dated 13.10.2006 in Sessions Case No.248 of 2005 is quashed and set aside. The Appeal is allowed.

(RAVI R. TRIPATHI, J.)

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